## UNITED STATES DISTRICT COURT FOR THE DISTRICT OF MASSACHUSETTS

IN RE PHARMACEUTICAL INDUSTRY AVERAGE	) ) MDL No.1456 )
WHOLESALE PRICE LITIGATION	) Master File No. 01-CV-12257-PBS
	) Subcategory No. 06-CV-11337-PBS
	) Judge Patti B. Saris
THIS DOCUMENT RELATES TO:	)
U.S. of America ex rel. Ven-A-Care	) Magistrate Judge Marianne B. Bowler
of the Florida Keys, Inc., et al. v.	
Boehringer Ingelheim Corporation, et al.,	)
Civil Action No. 07-10248-PBS	)
	)

## THE ROXANE DEFENDANTS' UNOPPOSED MOTION FOR LEAVE TO FILE A SUPPLEMENTAL LOCAL RULE 56.1 STATEMENT OF MATERIAL FACTS

Defendants Boehringer Ingelheim Roxane, Inc., Roxane Laboratories, Inc., Boehringer Ingelheim Corp., and Boehringer Ingelheim Pharmaceuticals, Inc. (collectively "Defendants") respectfully move the Court for leave to file a supplement to their Local Rule 56.1 Statement of Facts (Dkt. No. 6207). After Defendants' summary judgment briefing was filed, Magistrate Judge Bowler granted Defendants' Expedited Motion for Leave to Depose Carolyn Helton and Robin Kreush Stone (Ex. 1, 9/30/09 Order; Ex. 2, 9/14/09 Order). Defendants wish to file this supplemental statement of facts to supplement the summary judgment record with additional facts obtained from the depositions taken of Ms. Helton and Ms. Stone pursuant to Magistrate Judge Bowler's Order. Defendants believe this supplement will assist in resolving Defendants' pending summary judgment motion. The United States does not oppose Defendants' request. A copy of the proposed filing is attached as Exhibit 3.

Dated: October 29, 2009 Respectfully submitted,

## /s/ Eric T. Gortner

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Roxane Laboratories, Inc.

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**CERTIFICATE OF SERVICE** 

I certify that a true and correct copy of the foregoing was delivered to all counsel of

record by electronic service pursuant to Paragraph 11 of Case Management Order No. 2, by

sending on October 29, 2009, a copy to LexisNexis File and Serve for posting and notification to

all parties.

/s/ Eric T. Gortner

Eric T. Gortner